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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,572	07/03/2003	William Tsinberg	TSIN-001	2599
30332	7590	07/05/2005	EXAMINER	
JENNIFER MEREDITH MEREDITH & KEYHANI, PLLC 330 MADISON AVE. 6TH FLOOR NEW YORK, NY 10017			CHAMBERS, MICHAEL S	
		ART UNIT		PAPER NUMBER
		3711		
DATE MAILED: 07/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/613,572	TSINBERG, WILLIAM
	Examiner Mike Chambers	Art Unit 3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
 - 4a) Of the above claim(s) 20-22 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 1-19 is acknowledged. Claims 20-22 are withdrawn from further consideration, as directed to claims non-elected without traverse, 37CFR1.142.

Claim Objections

Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 4 claims the same taper as claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4, 6,7, and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Duganich (3137502). Duganich discloses a backboard, a goal (45) in fixed communication with said backboard (38), at least one stripe (41), wherein each said at least one stripe tapers towards said goal so as to visually aid the player (fig 1). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claims 2 and 3: Duganich discloses an inner and outer concentric square (fig 1).

As to claim 4 : See claim 1 rejection.

As to claim 6: Duganich discloses a left, right and top stripe (fig 1).



As to claim 7: Duganich discloses a left stripe (fig 1).

As to claim 9: Duganich discloses a right stripe (fig 1).

As to claim 10: Duganich discloses mirror left and right stripes (fig 1).

Also,

Claims 1,4, 6-11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Phelps et al (D308268). Phelps discloses a backboard a goal in fixed communication with said backboard, at least one stripe wherein each said at least one stripe tapers towards said goal so as to visually aid the player (fig 1). In as much structure set forth

by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claims 4 and 11 : See claim 1 rejection.

As to claim 6: Phelps discloses a left, right and top stripe (fig 1).

As to claims 7-9: Phelps discloses a left ,right and top stripe (fig 1).

As to claims 10 and 15: Phelps discloses mirror left and right stripes (fig 1).

Also,

Claims 1,4, 6-11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Heinen (5346207). Heinen discloses a backboard (9), a goal (5) in fixed communication with said backboard, at least one stripe (49), wherein each said at least one stripe tapers towards said goal so as to visually aid the player (fig 1). In as much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).

As to claims 4 and 11 : See claim 1 rejection.

As to claim 6: Heinen discloses a left, right and top stripe (fig 1, item 49).

As to claims 7-9: Heinen discloses a left ,right and top stripe (fig 1 item 49).

As to claims 10 and 15: Heinen discloses mirror left and right stripes (fig 1).

Also,

Claims 1,4, 6,7,9,10 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Spencer (6758768). Spencer discloses a backboard (22), a goal (36) in fixed communication with said backboard, at least one stripe (49), wherein each said at least one stripe tapers towards said goal so as to visually aid the player (fig 1). In as

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much structure set forth by the applicant in the claims, the device is capable of use in the intended manner if so desired (See MPEP 2112).



As to claim 4 and 6: See claim 1 rejection.

As to claims 7 and 9: Spencer discloses a left, and right stripe (fig 1).

As to claims 10 : Spencer discloses mirror left and right stripes (fig 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinen as applied to claim 1. The color of the stripe is a matter of design choice. The specification provides no unexpected results in using a stripe color the same as the goal. It would have been obvious to one of ordinary skill in the art to have selected an appropriate color based on cost and design considerations.

Also,

Claims 2, 3, 12,13, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heinen as applied to claim 1 above, and further in view of Spencer. The use of concentric squares is well known in the art. Spencer discloses the use of

concentric squares (fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the concentric squares of Spencer with the apparatus of Heinen in order to provide a visual target for the players to shoot at.

As to claims 3,12, and 13 : See claim 2 rejection.

As to claim 16 : See claim 2 rejection.

As to claim 17 : See claim 16 rejection. The color of the stripe is a matter of design choice. The specification provides no unexpected results in using a stripe color the same as the goal. It would have been obvious to one of ordinary skill in the art to have selected an appropriate color based on cost and design considerations.

Also,

Claims 16, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phelps et al (D308268) in view of Spencer. Phelps does not disclose the use of concentric squares. Spencer discloses the use of concentric squares (fig 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the concentric squares of Spencer with the apparatus of Phelps et al in order to provide a more realistic backboard and a visual target for the children to use as a target.

As to claims 17 and 19 : See claim 16 rejection. The placement of the square on the backboard is a matter of design choice. The specification provides no unexpected or surprising results in the placement of the square. It would have been obvious to one of ordinary skill in the art to have selected an appropriate place for the square based on design considerations..

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

6758768*5346207*3137502*6196938*6554724* Michael Chambers
4984787* D308268 Examiner
Art Unit 3711

June 27, 2005



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